

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 3:95-cr-147-4

KENNETH EDMONDS,

Defendant.

MEMORANDUM OPINION AND JUDGMENT ORDER

Pending before the Court is a motion, brought pursuant to 18 U.S.C. § 3582(c)(2), to reduce the defendant's sentence based on a reduction in the applicable sentencing guideline. On November 1, 2007, the United States Sentencing Guidelines were amended to reduce by two levels the guidelines in Section 2D1.1 for cocaine base (also known as crack). Subsequently, the Sentencing Commission amended Section 1B1.10 to make the crack amendment retroactive, effective March 3, 2008. Pursuant to a Standing Order entered on February 6, 2008, this case was designated for Standard consideration.

The Court has received and considered the original Presentence Investigation Report, original Judgment and Commitment Order and Statement of Reasons, plea agreement, and addendum to the PSI from the Probation Office, and received any materials submitted by the parties on this issue. The Court has also considered the applicable factors under 18 U.S.C. § 3553(a), consistent with § 3582(c)(2), and public safety.

The original Presentence Investigation Report attributed 312 grams of cocaine base to the defendant. This resulted in a base offense level of 34. The defendant's base offense level was

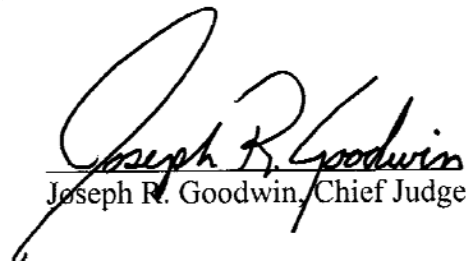
decreased by three levels for his acceptance of responsibility, resulting in a total offense level of 31. Given a total offense level of 31 and a criminal history category of VI, the defendant's original guideline range was 188 to 235 months imprisonment. The court sentenced the defendant to 188 months.

Initially, the United States objected to the defendant receiving a two-level reduction in offense level under the amended guidelines because the defendant had a history of criminal activity and numerous infractions while incarcerated. After counsel for the United States met with the defendant and officers of the United States Probation Office, however, the United States withdrew its objection, citing the defendant's completion of the residential drug treatment program and the fact that his prison infractions occurred more than five years ago.

Based on the foregoing considerations, the Motion is **GRANTED**. The Court **ORDERS** that Defendant's base offense level be reduced by two levels, resulting in a new total offense level of 29, and a guideline range of 151 to 188 months. It is further **ORDERED** that Defendant's previous sentence be reduced to a period of **151** months, with credit for time served to date. This Order is subject to the prohibition contained within U.S.S.G. §1B1.10(b)(2)(C).

The Court **DIRECTS** the Clerk to send a copy of this Order to the defendant and counsel, the United States Attorney, the United States Probation Office, the Federal Bureau of Prisons and the United States Marshals.

ENTER: June 19, 2008


Joseph R. Goodwin, Chief Judge